

REMARKS

A. Allowable Subject Matter

Applicant again wishes to thank the Examiner for indicating that claims 11, 24, 32 and 39 are allowable if rewritten in independent form to include all of the limitations of a base claim and any intervening claims. However, Applicant believes these claims are allowable in their present form for at least the reasons set forth below.

B. Double Patenting

A number of claim sets were rejected based on the judicially created doctrine of obviousness-type double patenting based on an earlier issued patent that names the same inventor, U.S. Patent No. 7,266,110 to Cao (the “’110 Patent”). More specifically: (i) claims 1 and 12 were rejected as being unpatentable over claims 1 and 6 of the ‘110 Patent in view of U.S. Patent No. 5,920,412 to Chang (“Chang ‘412”); (ii) claims 2, 3, 7, 13, 14 and 18 were rejected as being unpatentable over claims 1-9 of the ‘110 Patent in view of Chang ‘412 and U.S. Patent No. 5,570,355 to Dail; (iii) claims 4-6 and 15-17 were rejected as being unpatentable over claims 1-5 of the ‘110 Patent in view of Chang ‘412, Dail and U.S. Patent No. 6,574,224 to Brueckheimer (“Brueckheimer”); (iv) claims 8 and 19 were rejected as being unpatentable over claims 1-5 of the ‘110 Patent in view of Chang ‘412, Dail and U.S. Patent No. 5,982,771 to Caldara (“Caldara”); and (v) claims 9 and 20-22 were rejected as

being unpatentable over claims 1-5 of the '110 Patent in view of Chang '412, Dail and U.S. Patent No. 5,832,197 to Houji ("Houji").

Without admitting or denying the substance of these rejections, the Applicants have submitted a terminal disclaimer (see Attachment A). Accordingly, by filing this terminal disclaimer the Applicants believe that the non-statutory, double-patenting rejections are now moot.

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1-4, 6-9, 12-14 and 15-22.

C. The Section 103 Rejections Based On Chang '412 In Combination With Other References.

Some of the claims were also rejected under §103(a) based on Chang '412 in combination with one or more other references as follows: (a) claims 1 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of U.S. Patent No. 6,657,757 to Chang et al ("Chang '757"); (b) claims 2, 3, 7, 13, 14, 28 and 33 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, and further in view of Dail; (c) claims 8, 19, 29 and 34 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, Dail and Caldara; (d) claims 9, 20-22, 25-27, 30, 35-37 and 40-42 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, Dail and Houji; and (e) claims 10, 23, 31, and 38 were rejected under 35 U.S.C. 103(a) as being unpatentable over Chang '412 in view of Chang '757, Dail, Houji and

Brueckheimer. Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Applicant respectfully submits that Chang '412 fails to teach or suggest: (i) the routing of IP traffic based on an ATM service category; (ii) at least one circuit switch and packet switch fabric making up a (iii) hybrid telecommunications switch as recited in claim 1 and similarly recited in claims 12, 28 and 33.

As admitted by the Examiner (page 14 of Office Action) , Chang '412 is unrelated to IP traffic. However, this is not the only feature of the claims that is lacking in Chang '412.

For example, Applicant respectfully submits that the “type check 24” disclosed in Chang '412 (and cited by the Examiner) determines whether an optical signal is an ATM or STM signal without taking into consideration the *ATM service level* of any of the traffic (see Chang '412, column 12, lines 13-14; 32-33; 53-54; and column 15, lines 25-52). Thus, Chang '412 does not disclose the routing of IP traffic based on an ATM service category as recited in claim 1 and similarly recited in claim 12 (and 28, 33).

Further, though the Examiner appears to equate the “Optical Network Routing Apparatus (ONRA) 14d” of Chang '412 with the claimed hybrid telecommunications switch, this is inaccurate. The ONRA is a router, not a switch. Chang '412 itself uses the two words router and switch differently (see

for example, “ONRA 14d”, “ATM switch 10”, and “STM Station or Switch 20” in Fig. 4.). Thus, Chang ‘412 does not disclose a hybrid telecommunications switch as recited in claim 1 and similarly recited in claim 12 (and 28, 33).

Last, but not least, the Examiner appears to equate the “STM” and “ATM” add/drop multiplexers (ADMs) 28, 32 of Chang ‘412 with the claimed circuit switch and packet switch fabrics. This too is inaccurate. An ADM is not a switch as is no doubt realized by the Examiner. Further, Chang ‘412 itself uses the two words ADM and switch differently (see for example, “STM ADM 28”, “ATM ADM 32”, “ATM switch 10”, and “STM Station or Switch 20” in Fig. 4.). In sum, Chang ‘412 does not disclose a hybrid telecommunications switch that comprises a circuit switch fabric and packet switch fabric as recited in claim 1 and similarly recited in claim 12 (and 28, 33).

In sum, Chang ‘412 is missing many features of claims 1 and 12.

As is no doubt recognized by the Examiner, neither Chang ‘757, Dail, Caldara, Houji nor Brueckheimer make up for these deficiencies in Chang ‘412.

Thus, it is respectfully submitted that the claims rejected under 35 U.S.C. 103(a) based on a combination of Chang ‘412 with one or more of Chang ‘757, Dail, Caldara, Houji or Brueckheimer are patentable over these references because each of the rejected claims are dependent upon either claim 1, 12, 28 or 33 and because neither Chang ‘757, Dail, Caldara, Houji nor Brueckheimer makes up for the deficiencies discussed above with respect to Chang ‘412.

D. Conclusion

Applicant respectfully requests withdrawal of the rejections and allowance of claims 1-42.

In the event this Response does not place the present application in condition for allowance, applicant requests the Examiner to contact the undersigned at (703) 266-3330 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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